



AN ACT PROVIDING FOR A STATEWIDE CENTRAL REGISTRY FOR SUBSTANTIATED REPORTS OF CHILD ABUSE OR NEGLECT; ESTABLISHING PROCEDURES FOR EXPUNGEMENT FROM THE CENTRAL REGISTRY; PROVIDING DEFINITIONS; ESTABLISHING REPORTING REQUIREMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 5th and 14th Amendments to the United States Constitution prohibit governments from depriving individuals of their liberty or property interests without due process of the law; and

WHEREAS, this state has established procedures for collecting and maintaining child abuse and neglect investigation records in a central registry that includes the identities of individuals alleged to have abused or neglected a child; and

WHEREAS, the names maintained in Montana's central registry may be disclosed to certain third parties in the course of background checks related to an individual's employment, licensure, and volunteer activities; and

WHEREAS, the disclosures may have a significant negative impact on an individual's liberty and property interests, including the loss or denial of employment and the loss of reputation in the community; and

WHEREAS, the Legislature wishes to ensure that this state's procedures for listing individuals on the central registry comport with constitutional due process requirements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Central registry -- purpose -- determinations. (1) There is established a statewide central registry to maintain information on individuals who are the subject of substantiated determinations of child abuse or neglect. The information may be made available during a background check of an individual as provided for in 41-3-205 and may affect the individual's ability to volunteer or obtain employment or licensure in

areas in which the individual may have unsupervised contact with children, such as child care, foster care, or group home care.

(2) For the purposes of [sections 1 and 2], a determination of child abuse or neglect must be categorized according to the following definitions:

(a) (i) "Substantiated" means that the department has investigated the reported act of child abuse or neglect and determined by a preponderance of the evidence that an act of child abuse or neglect occurred.

(ii) The subject of a substantiated determination may be added to the central registry and must be notified of the consequences of being listed in the central registry, as well as the subject's rights and procedures for requesting expungement from the central registry.

(b) "Unfounded" means that the department has investigated the reported act of child abuse or neglect and there is no evidence to corroborate the report.

(c) "Unsubstantiated" means that the department has investigated the reported act of child abuse or neglect and is unable to determine by a preponderance of the evidence that an act of child abuse or neglect occurred.

~~Section 2.~~ **Expungement from central registry -- report to legislature.** (1) An individual listed in the central registry may request to have the individual's name expunged from the central registry by submitting a written request to the department accompanied by an affidavit sworn to by a person with personal knowledge stating facts sufficient to show that there is good cause for expungement. Good cause includes but is not limited to:

- (a) newly discovered evidence that a substantiated report of child abuse or neglect is inaccurate;
 - (b) evidence that the requester no longer poses a risk and that no significant public purpose is served by continued listing of the requester in the state's central registry;
 - (c) evidence that the underlying case on which the substantiated determination was based was closed or dismissed, resulting in reunification, and the requester no longer poses a risk to children;
 - (d) evidence that circumstances that contributed to the finding of abuse or neglect no longer exist;
- or
- (e) evidence that actions taken by the requester since the incident of abuse or neglect prevent the reoccurrence of abuse or neglect.

(2) (a) An administrator of the department shall review the request within 30 days of receiving the request and determine whether to grant the request.

(b) If the request is granted, the department shall expunge the requester's name from the central registry within 30 days and shall:

(i) destroy any written electronic or hardcopy records of the department related to the requester's substantiation determination; and

(ii) notify the requester and other entities, if appropriate, that the expungement process has been completed.

(c) If the request is denied, the department shall notify the requester in writing within 30 days and shall notify the requester of the right to petition the district court for expungement under subsection (3).

(3) (a) An individual whose written request for expungement has been denied by the department pursuant to subsection (2) may petition the district court in the county in which the individual resides, requesting that the court expunge the individual's name from the central registry. The petition must name the department as a respondent and must be accompanied by an affidavit sworn to by a person with personal knowledge stating facts sufficient to show that there is good cause for expungement as provided in subsection (1).

(b) The court shall hold a hearing on the petition and any response provided by the department unless a hearing is waived by agreement of the parties. At the hearing, the petitioner must be afforded an opportunity to present evidence supporting the petitioner's request for expungement.

(c) If the court finds that the petitioner has established good cause for expunging the petitioner's name from the central registry, the court shall grant the petition and shall order the department to:

(i) expunge the petitioner's name from the central registry within 30 days:

(ii) destroy any written, electronic, or hardcopy records of the department related to the petitioner's substantiation determination; and

(iii) notify the petitioner, the court, and other entities, if appropriate, that the expungement process has been completed.

(4) An individual who is listed in the central registry shall wait 2 years from the date of the original substantiation determination before requesting expungement.

(5) If an individual's request for expungement under this section is denied, the individual shall wait

2 years before submitting another request for expungement.

(6) (a) An individual listed in the state's central registry prior to [the effective date of this act] may request to have the individual's name expunged from the central registry by following the procedures described in this section.

(b) The department shall notify all individuals listed in the central registry on [the effective date of this act] of the right to request expungement under this section.

(7) Procedures for the expungement of central registry records, as well as updated phone numbers, addresses, and other contact information for the district court and other relevant parties, must be accessible to the public online and posted in a place that is open for public viewing in child and family services offices.

(8) Nothing in this section constitutes a waiver of any right or remedy otherwise available to an individual seeking expungement under this section.

(9) By September 1 of each year, the department shall report to the children, families, health, and human services interim committee in accordance with 5-11-210 on the following:

(a) the total number of individuals listed in the registry;

(b) the number of individuals added to the registry in the past calendar year;

(c) the number of individuals who requested expungement from the registry in the past calendar year, including the number of:

(i) first-time expungement requests submitted pursuant to subsection (4); and

(ii) second or subsequent requests submitted pursuant to subsection (5);

(d) the number of expungement requests granted in the past calendar year, including the number of granted expungement requests that are:

(i) first-time requests pursuant to subsection (4); and

(ii) second or subsequent requests submitted pursuant to subsection (5); and

(e) the number of expungement requests denied in the past calendar year, including:

(i) the number of denied expungement requests that are:

(A) first-time requests pursuant to subsection (4); and

(B) second or subsequent requests pursuant to subsection (5); and

- (ii) the reason for each denied expungement request.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as a new part in Title 41, chapter 3, and the provisions of Title 41, chapter 3, apply to [sections 1 and 2].

Section 4. Effective date. [This act] is effective July 1, 2025.

- END -

I hereby certify that the within bill,
SB 468, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2025.

Speaker of the House

Signed this _____ day
of _____, 2025.

SENATE BILL NO. 468

INTRODUCED BY D. LENZ

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